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Honorable Brian D. Lynch
CHAPTER 13

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

6 **GROVE, Randy O. & Sarah A.,**
7 Debtors.

Number 20-40778

Adversary Number: 20-

8 **GROVE, Randy O. & Sarah A.,**
9 Plaintiffs,

**COMPLAINT TO DETERMINE
VALIDITY AND EXTENT OF LIEN**

10 vs.

11 **SAFECO INSURANCE COMPANY OF**
12 **AMERICA INC., A LIBERTY MUTUAL**
13 **COMPANY,**

14 Defendant.

15 Randy O. Grove and Sarah A. Grove (hereinafter "Plaintiffs") alleges as follows:

16 **1. Jurisdiction**

17 1. That this Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334
18 & 28 U.S.C. § 157(b)(2)(G). This matter relates to a case under Title 11 of the United States
19 Code. This proceeding is defined as a "core proceeding" as that is defined in the Code.
20 Plaintiffs consent to entry of final orders or judgment by the bankruptcy court in this
21 adversary proceeding.

22 **2. History**

23 2. That Plaintiffs filed their Chapter 13 bankruptcy case in the United States
24 bankruptcy court for the Western District of Washington on March 17, 2020 under case
25 number 20-40778.

26 COMPLAINT - 1

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3. That this Court upon the filing of the Petition duly entered an Order for Relief under the provisions of the Bankruptcy Code.

4. That Michael G. Malaier was appointed the chapter 13 Trustee in the Plaintiffs' Chapter 13 case and serves in that capacity in this case.

5. That at all times material herein Defendant, Safeco Insurance Company of America Inc., A Liberty Mutual Company (hereinafter “Defendant” or “Safeco”) has conducted business in the State of Washington.

3. Factual Allegations

6. That at all times material herein Plaintiff had in effect an automobile policy of insurance in regards to Plaintiffs' automobile as evidenced by Policy Number H2159541 with Defendant.

7. That on or about the 12th day of June 2019, Plaintiff, Sarah A. Grove was involved in an automobile accident (hereinafter “Accident”).

8. Due to the Accident, Plaintiff incurred medical expenses. Defendant paid some of the medical expenses under that portion of the Safeco's automobile policy known as Personal Injury Protection (hereinafter "PIP"). Upon making said payments, Defendant established a claim known internally by Defendant as Safeco "Claim No. 040276022".

9. That subsequent to the Accident, Plaintiff Sarah A. Grove employed attorney Sears Injury Law, PLLC to represent her in pursuing a claim against the tortfeasor.

10. The tortfeasor's insurer, Geico, has offered to settle Plaintiffs' claims for the sum of \$16,660.35 (hereinafter "Settlement Proceeds").

11. Defendant may claim a lien or right of reimbursement on any Settlement Proceeds paid by Geico and or any judgment obtained against the tortfeasor based upon its payment of certain medical bills arising out of the Accident and Safeco's above referenced insurance policy (including but not limited to payments made under PIP) although it did not yet filed a proof of claim in the Grove Chapter 13 bankruptcy proceeding.

1 12. Prior to the date of filing of the bankruptcy, Defendant did not file or otherwise
2 perfect a claim of lien pursuant to Washington state law in Plaintiffs' claim (the settlement or
3 judgment proceeds from the tortfeasor and/or its insurer). At most, Defendant has an unsecured
4 claim in Plaintiffs underlying bankruptcy proceeding.

5 **4. Prayer for Relief**

6 WHEREFORE, Plaintiff respectfully prays for the following relief:

7 1. That this Court entered a Judgment declaring that Defendant does not have a valid
8 and enforceable lien or right to payment from Defendants' Settlement Proceeds or Judgment
9 that may be recovered due to the Accident.

10 2. That Plaintiffs have such further and other relief as the Court deems just and proper.

11 Dated this 25th day April 2020

12 Law Offices of Travis Gagnier, Inc., P.S.
13 Attorneys for Plaintiffs

14 /s/ Travis A. Gagnier
15 Travis A. Gagnier, WSBA #26379
16 Gregory Jalbert, WSBA #9480
17 Of Counsel
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